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TITLE 71 INDIANA HORSE RACING COMMISSION

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Emergency Rule  
LSA Document #20-295(E)

## DIGEST

Amends [71 IAC 4-3-15](#) regarding pylons. Amends [71 IAC 5-1-23](#) regarding visitor's pass. Amends [71 IAC 5.5-1-23](#) regarding visitor's pass. Amends [71 IAC 7.5-4-1](#) regarding requirements. Amends [71 IAC 7.5-5-1](#) regarding horses ineligible. Amends [71 IAC 8-3-5](#) regarding out of competition testing. Amends [71 IAC 8-10-6](#) regarding penalties. Amends [71 IAC 8.5-2-5](#) regarding out of competition testing. Amends [71 IAC 8.5-10-6](#) regarding penalties. Amends [71 IAC 9-2.2-4](#) regarding SPMO license criteria and commission action. Amends [71 IAC 9-2.2-5](#) regarding bond or irrevocable letter of credit. Amends [71 IAC 13-1-3](#) regarding information to be submitted with a registration. Amends [71 IAC 14-4-4](#) regarding breeder awards. Amends [71 IAC 14.5-3-1](#) regarding owner awards. Amends [71 IAC 14.5-3-2](#) regarding breeder awards. Amends [71 IAC 14.5-3-3](#) regarding stallion owner awards. Effective June 1, 2020.

[71 IAC 4-3-15](#); [71 IAC 5-1-23](#); [71 IAC 5.5-1-23](#); [71 IAC 7.5-4-1](#); [71 IAC 7.5-5-1](#); [71 IAC 8-3-5](#); [71 IAC 8-10-6](#); [71 IAC 8.5-2-5](#); [71 IAC 8.5-10-6](#); [71 IAC 9-2.2-4](#); [71 IAC 9-2.2-5](#); [71 IAC 13-1-3](#); [71 IAC 14-4-4](#); [71 IAC 14.5-3-1](#); [71 IAC 14.5-3-2](#); [71 IAC 14.5-3-3](#)

SECTION 1. [71 IAC 4-3-15](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 4-3-15](#) Pylons**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 15. (a) If, at a race track that has pylon demarcations, a horse or the horse's sulky leaves the course by going inside of a pylon, **when not forced to do so as a result of another driver or horse**, that horse may be penalized by a placing by the judges.

(b) For purposes of placing, the term "going inside of a pylon" means any instance where a wheel goes completely inside the inner limits of the course without striking the base of a pylon, and the following shall apply:

- (1) Only the pylons set in accordance with subsection (g)(3) and (g)(4) shall be considered for placings or violations, or both.
- (2) If a horse, while on stride, goes inside two (2) consecutive pylons, the offending horse shall be placed behind all horses that are lapped on to the offending horse at the wire.
- (3) If a horse, while on stride, goes inside three (3) or more consecutive pylons, the offending horse may be placed last.
- (4) If a horse, while on stride, goes inside a pylon or pylons and that action gave the horse an unfair advantage over other horses in the race or the action helped improve its position in the race, the horse may be placed at the discretion of the judges.

(c) If the driver goes inside the pylons and does not immediately correct position, the horse may be penalized by a placing.

(d) Horses using the inside to pass must have complete clearance of the pylons.

(e) Drivers striking pylons but not gaining an unfair advantage may be fined.

(f) When an act of interference causes a horse or part of the horse's sulky to be in violation of this title and the horse is disqualified, the offending horse shall be placed behind the horse with which it interfered.

(g) Pylons shall be spaced consistently and shall be:

- (1) thirty (30) inches above ground level;
- (2) at a thirty (30) degree angle, facing inward to the track surface on the turns;
- (3) forty (40) feet apart on the turns; and

(4) sixty (60) feet apart on the straightaway.

(Indiana Horse Racing Commission; [71 IAC 4-3-15](#); emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3125, eff May 26, 1999 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2098; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1912; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); emergency rule filed Apr 30, 2018, 3:54 p.m.: [20180502-IR-071180203ERA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))

SECTION 2. [71 IAC 5-1-23](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 5-1-23](#) Visitor's pass**

**Authority:** [IC 4-31-6-2](#)

**Affected:** [IC 4-31](#)

Sec. 23. **Judges or track security, with the judges' approval**, may authorize unlicensed persons temporary access to restricted areas. Such persons shall be identified and their purpose and credentials verified and approved in writing by track security. ~~A copy of the written approval shall be filed with the commission or its designee within forty-eight (48) hours.~~ **by the judges.** Such authorization or credential may only be used by the person to whom it is issued.

(Indiana Horse Racing Commission; [71 IAC 5-1-23](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1143; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))

SECTION 3. [71 IAC 5.5-1-23](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 5.5-1-23](#) Visitor's pass**

**Authority:** [IC 4-31-6-2](#)

**Affected:** [IC 4-31](#)

Sec. 23. **Stewards or track security, with the stewards' approval**, may authorize unlicensed persons temporary access to restricted areas. Such persons shall be identified and their purpose and credentials verified and approved in writing by track security. ~~A copy of the written approval shall be filed with the commission or its designee within forty-eight (48) hours.~~ **by the stewards.** Such authorization or credential may only be used by the person to whom it is issued.

(Indiana Horse Racing Commission; [71 IAC 5.5-1-23](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2853, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))

SECTION 4. [71 IAC 7.5-4-1](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 7.5-4-1](#) Requirements**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 1. (a) A horse that has not started for a period of sixty (60) days or more prior to race day must have an official timed workout within the previous forty-five (45) days prior to race day. First time starters must have two (2) or more official timed workouts, and at least one (1) such workout must be from the starting gate. The workout must have occurred at a pari-mutuel track or commission recognized training facility. The association may impose

more stringent workout requirements. All workouts are subject to the approval of the commission.

(b) A horse that has not made an official racing start in two (2) years or longer must have a workout in front of a regulatory track veterinarian prior to being declared eligible to race in Indiana. **started for a period of three hundred sixty-five (365) days or more shall be ineligible to start until it has:**

- (1) Successfully completed a racing soundness examination administered by the regulatory or track veterinarian.**
- (2) Completed an official workout of not less than four (4) furlongs in a time of fifty-two (52) seconds, or better, under the observation of the regulatory or track veterinarian. A horse participating in an official workout is subject to placement on the veterinarian's list and may be required to submit to a post-work biologic sample collection and testing for foreign substances in accordance with [71 IAC 8.5-1-2](#) and [71 IAC 8.5-1-4.2](#). Placement of a horse on the veterinarian's list shall be in accordance with the requirements set forth in [71 IAC 8.5-8-1](#). All testing as required by this section and ordered by the regulatory or track veterinarian shall be conducted in accordance with commission sample collection and testing procedures with all tests to be at the expense of the horse owner or trainer.**

*(Indiana Horse Racing Commission; [71 IAC 7.5-4-1](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2869, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2156; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Mar 23, 2010, 1:27 p.m.: [20100331-IR-071100170ERA](#); emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 5. [71 IAC 7.5-5-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 7.5-5-1](#) Horses ineligible**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 1. (a) A horse is ineligible to start in a race when:

- (1) it is not stabled on the grounds of the association or present by the time established by the commission;
- (2) for a quarter horse, its breed registration certificate is not on file with the racing secretary or horse identifier, unless the racing secretary has submitted the certificate to the appropriate breed registry for correction, or the information contained on the registration certificate is available to the racing secretary, or his or her designee, through the electronic registration system, **however:**
  - (A) the stewards for good cause may waive this requirement if the horse is otherwise correctly identified to the satisfaction of the stewards and identifier;
  - (B) if the electronic registration system fails for any reason, the stewards may require presentation of a horse's registration certificate prior to a horse being entered or raced in Indiana;
  - (C) the stewards may at any time require presentation of a horse's registration certificate; and
  - (D) a horse may not receive a preference date prior to entry unless the horse's registration paper is on file with the racing secretary;
- (3) it is not fully identified and tattooed on the inside of the upper lip or microchipped or identified by any other method approved by the appropriate breed registry and the commission;
- (4) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, or altered lip tattoo or microchip or other identification method approved by the appropriate breed registry and the commission;
- (5) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;
- (6) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
- (7) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;
- (8) its name appears on the starter's list, stewards' list, or veterinarian's list;
- (9) it is a first time starter and has not been approved to start by the starter;

- (10) it is owned in whole or in part by an undisclosed person or interest;
- (11) it lacks sufficient official published workouts or ~~race~~ past **race** performances;
- (12) it has been entered in a stakes race and has subsequently been transferred with its engagements unless the racing secretary has been notified of such prior to the start;
- (13) it is subject to a lien, which has not been approved by the stewards and filed with the horsemen's bookkeeper;
- (14) it is subject to a lease not filed with the stewards;
- (15) it is not in sound racing condition;
- (16) it has had a posterior digital neurectomy (heel denerving), which has not been approved by the official veterinarian;
- (17) it has been trachea tubed to artificially assist breathing;
- (18) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
- (19) it has impaired eyesight in both eyes;
- (20) it is barred or suspended in any recognized jurisdiction;
- (21) it does not meet the eligibility conditions of the race;
- (22) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
- (23) its owners, lessors, lessees, or trainer have not completed the licensing procedures required by the commission;
- (24) it is by an unknown sire or out of an unknown mare;
- (25) there is no negative test certificate for equine infectious anemia issued within the preceding twelve (12) months attached to its breed registration certificate;
- (26) if a quarter horse, it has shoes (racing plates) that have toe grabs with a height greater than four (4) millimeters (fifteen thousand seven hundred forty-eight hundred-thousandths (0.15748) inches), or any other traction device on the front hooves while racing or training on all racing surfaces;
- (27) if a thoroughbred, it has shoes (racing plates) which have toe grabs with a height greater than two (2) millimeters (seven thousand eight hundred seventy-four hundred-thousandths (0.07874) inches), bends, jar caulks, stickers, or any other traction device on the front hooves while racing or training on all racing surfaces;
- (28) it has reached the age of twelve (12) **years**;
- (29) it is a maiden that has reached the age of six (6) **years or older with more than six (6) starts**;
- (30) the race date is within ten (10) days of having extracorporeal shock wave or radial pulse wave therapy; or
- (31) upon claim, sale, or any transfer of ownership, if the foal certificate is not otherwise on file with the racing office, the previous owner shall present the foal certificate to the racing secretary within seventy-two (72) hours of the change of ownership so the ownership can be updated.

(b) The stewards may consider extenuating circumstances in determining ineligibility of a horse with respect to subsection (a)(1) and (a)(2).

(c) A horse that has not made an official racing start in two (2) years or longer must have a workout in front of a regulatory track veterinarian prior to being declared eligible to race in Indiana.

*(Indiana Horse Racing Commission; [71 IAC 7.5-5-1](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2870, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3408; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 23, 2010, 1:27 p.m.: [20100331-IR-071100170ERA](#); emergency rule filed Mar 8, 2012, 11:43 a.m.: [20120321-IR-071120117ERA](#); emergency rule filed Jul 5, 2012, 2:14 p.m.: [20120718-IR-071120402ERA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 6. [71 IAC 8-3-5](#) IS AMENDED TO READ AS FOLLOWS:

**71 IAC 8-3-5 Out of competition testing****Authority:** [IC 4-31-3-9](#)**Affected:** [IC 4-31-12](#)

Sec. 5. (a) Any horse eligible to race in Indiana under this subsection is subject to testing without advance notice for prohibited substances, practices, and procedures as specified in subsection (f), while the horse is located on the grounds of a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of trainer or owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:

- (1) on an owner's or trainer's license application;
- (2) on a stall application or nomination list; or
- (3) on the horse sign-in sheet at any time during the meet;

or has raced at any Indiana race meet during the preceding three hundred sixty-five (365) days. A horse shall be presumed eligible if it is a racing breed, at least two (2) years old, and an Indiana bred or sired horse. The owner of such an Indiana bred or sired horse may render the horse ineligible for the testing as described in this rule by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana under subsection (b) provided that the owner of such an Indiana bred or sired horse provides ~~such~~ written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b).

(b) If a horse to be tested is not covered under subsection (a), the executive director or judges may nevertheless test any such horse as eligible to race in Indiana for prohibited substances, practices, and procedures specified in subsection (f), unless the owner or trainer or other authorized representative or designee of such horse immediately represents in writing that the horse is not intended to be, and will not be, raced in Indiana for a minimum of three hundred sixty-five (365) days. If the owner, trainer, or other authorized representative or designee so represents, the horse shall be deemed ineligible for racing in Indiana for no less than three hundred sixty-five (365) days from that date. This three hundred sixty-five (365) day ineligibility to race in Indiana shall follow the horse even if sold or transferred to another owner or trainer. An owner or trainer may, however, consent to the collection of a sample from a horse selected for testing under this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or judges may order any horse of a licensed trainer or owner to report to a track under the jurisdiction of the commission for out of competition testing. The trainer or owner is responsible to have the horse or horses available at the designated time and location. In the event that a horse is ordered to report to a track pursuant to the authority granted by this subsection, a licensed trainer or owner is entitled to reimbursement by the commission for mileage (at the current rate paid by the state of Indiana as specified in the current Indiana financial management circular) to and from the location where the horse was stabled when the horse was ordered to report to the track. Under no circumstances will a trainer or owner be entitled to reimbursement for mileage in excess of the actual mileage to the track from the place where the horse was stabled when ordered to report and from the track to the place where the horse is first stabled following the testing. The trainer or owner is not entitled to receive reimbursement from the commission for any other expense relating to any order under this subsection to report to a track for out of competition testing.

(d) The official veterinarian, a licensed veterinarian authorized by the commission, **or** a veterinary technician under the direct supervision of the official veterinarian or a licensed veterinarian authorized by the commission may take a urine, blood, or hair sample from a horse for testing as provided for in this section.

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives ~~must~~ **may** arrive **at a reasonable time** for the taking of blood, urine, or hair samples from an eligible horse, as defined in subsection (a) or (b), ~~only between the hours of 7:00 a.m. and noon~~, after announcing their presence at the premises where the horse or horses to be tested are located and showing their credentials to collect samples from the horse or horses selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse or horses. If neither is available, the collection will be deferred until the trainer or owner, or both, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee



arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner or trainer, or both, of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, or summary suspension. It is a defense to any action brought against an owner or trainer, or both, for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner or trainer or their representative or designee from complying with the time limits set forth in this subsection. The owner or trainer or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, methods, and procedures are defined as the following:

- (1) Blood doping agents, including, but not limited to, erythropoietin (EPO), darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues.
- (2) Gene doping agents or the nontherapeutic use of genes, genetic elements, or cells, or all, that have the capacity to enhance athletic performance or produce analgesia.
- (3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.
- (4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.
- (5) Androgenic-anabolic steroids (AAS) other than endogenous concentrations of the naturally occurring substances as defined in [71 IAC 8-1-8](#) or AAS in a horse placed on the veterinarian's list in accordance with [71 IAC 8-1-8\(f\)](#).
- (6) Cobalt in excess of the threshold provided in [71 IAC 8-1-9](#). In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.
- (7) Any substance or method not otherwise referenced in this rule, which is present on Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances).
- (8) The presence in a horse of any substance at any time listed in subdivision (1), (2), (3), (4), (5), or (7) in an eligible **horse**, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.
- (9) The use of a prohibited method, as defined in Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), on an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(g) The trainer or owner or his or her designees shall cooperate with the official veterinarian or any licensed veterinarian or licensed veterinary technician authorized by the commission or any commission employee by:

- (1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and
- (2) providing a stall or safe location to collect the samples.

The executive director or judges may summarily suspend, exclude, or otherwise penalize any trainer or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or providing a safe stall to collect samples in a timely fashion. If any such person is summarily suspended, excluded, or otherwise penalized, she or he shall be entitled to a hearing in accordance with Indiana law and regulations. A summary suspension, exclusion, or sanctions for failure to cooperate shall not issue, however, if a horseman meets his or her burden to establish the good cause defense set forth under subsection (e). This provision does not apply to an owner or trainer who timely provides written notice under subsection (a) or (b) that a horse sought to be tested is not intended to be raced in Indiana and thereby renders the horse ineligible pursuant to subsection (b).

(h) The collection of blood or urine samples under this rule shall be collected as provided by [71 IAC 8-4-1](#) and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.
- (3) Approved laboratory for split sample testing as chosen by the owner or trainer.

The commission shall approve the laboratories for screening, confirmation, and split sample testing.

(i) The collection of hair samples under this rule shall be collected as provided by [71 IAC 8-4-1](#) and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.

The commission shall approve the primary laboratories for screening and confirmation. A hair sample shall be ineligible for split sample testing.

(j) The licensed trainer of the horse is responsible for the condition of the horse sampled for an out of competition test while on the grounds of a licensed training facility or racetrack as follows:

- (1) If the horse is sampled while not on the grounds of a licensed facility or racetrack, then the licensed owner shall be presumed to be the responsible person unless the owner can establish by substantial evidence that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.
- (2) If a horse sampled for an out of competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.
- (3) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.
- (4) A claimed horse is ineligible to be subjected to out of competition testing in the forty-eight (48) hours post claim unless the horse was subjected to post race testing.

(k) In the absence of extraordinary mitigating circumstances, a minimum penalty of a ten (10) year suspension will be assessed for any violation of subsection (f)(1) and (f)(2). The Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule will be considered for violations of subsection (f)(3), (f)(4), and (f)(5) with additional penalties for any drug not FDA approved for use in horses.

*(Indiana Horse Racing Commission; [71 IAC 8-3-5](#); emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed May 7, 2014, 2:27 p.m.: [20140514-IR-071140143ERA](#), eff May 15, 2014; emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Jan 1, 2015; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#); emergency rule filed Aug 29, 2018, 11:12 a.m.: [20180905-IR-071180370ERA](#); emergency rule filed Mar 15, 2019, 2:42 p.m.: [20190320-IR-071190167ERA](#); errata filed Mar 29, 2019, 10:12 a.m.: [20190403-IR-071190167ACA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 7. [71 IAC 8-10-6](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 8-10-6](#) Penalties**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 6. (a) Upon a finding of a positive test, the judges or commission shall, to the extent of its regulatory authority, impose the following sanctions:

- (1) For a licensee's first violation, he or she shall be suspended for thirty (30) days and, **in order for the suspension to be lifted**, shall be subject to a mandatory drug retest after thirty (30) days from the first violation of this article. Such additional drug test, **known as the standard drug test**, shall be done by the commission testing laboratory at the licensee's expense. Until such retest **using the standard drug test**

achieves negative results, the licensee shall remain suspended **with the following exceptions:**

**(A) For a licensee's first violation, he or she may take a drug test after thirty (30) days from the first violation of this article known as the immediate drug test. Provided the immediate drug test is negative, the licensee's suspension will be lifted, by amending the initial ruling, while the results of the standard drug test are pending. If the licensee's standard drug test returns a negative result, the licensee's suspension remains lifted.**

**(B) If the standard drug test returns a positive result, the judges will enter an amended ruling suspending the licensee until such time as a standard drug test, which shall be done by the commission testing laboratory at the licensee's expense, returns a negative result.**

**The licensee is only allowed one (1) immediate drug test, which is to be taken at the end of the initial thirty (30) day suspension.**

(2) For a second violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The requirements shall include an additional drug test with negative results. Such test shall be under the supervision or approval of the commission.

(3) For a third violation, the licensee will receive a mandatory suspension of his or her license for a period of one (1) year and shall not be eligible to reapply for his or her license until the applicant pays for and submits to two (2) urine or saliva samples, or both, thirty (30) days apart with both samples failing to show any trace of a controlled substance or prescription drug. All such samples shall be obtained and tested by the commission or approved by the commission at a location and in a manner prescribed by the commission and at the expense of the licensee. After the licensee has received two (2) negative tests, he or she may reapply for a license unless his or her continuing participation at a race meeting shall be deemed by the commission director of security or his or her designee to be detrimental to the best interest of horse racing.

(b) Prior human controlled substance or prescription drug violations reflected on a person's racing record from any jurisdiction recognized by the commission, including Indiana, shall be counted as violations when determining appropriate penalties as set forth in subsection (a).

(c) In determining the penalty to impose for an offense covered by this rule, the judges or the commission may consider any mitigating ~~and/or~~ **or** exacerbating, **or both**, circumstances and make an appropriate adjustment to the penalties ~~which that~~ are set forth in subsection (a).

*(Indiana Horse Racing Commission; [71 IAC 8-10-6](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1177; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2163; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1670, eff Feb 24, 2000; errata filed Mar 13, 2000, 7:36 a.m.: 23 IR 1656; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Oct 3, 2013, 2:08 p.m.: [20131009-IR-071130452ERA](#); emergency rule filed Apr 17, 2015, 3:15 p.m.: [20150422-IR-071150105ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 8. [71 IAC 8.5-2-5](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 8.5-2-5](#) Out of competition testing**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 5. (a) Any horse eligible to race in Indiana under this subsection is subject to testing without advance notice for prohibited substances, practices, and procedures as specified in subsection (f), while the horse is located on the grounds of a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of a trainer or owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:

- (1) on an owner's or trainer's license application;
- (2) on a stall application or nomination list; or
- (3) on the horse sign-in sheet at any time during the meet;

or has raced at any Indiana race meet during the preceding three hundred sixty-five (365) days. A horse shall be presumed eligible if it is a racing breed, at least two (2) years old, and an Indiana bred or sired horse. The owner of such an Indiana bred or sired horse may render the horse ineligible for the testing as described in this rule by



indicating in writing the Indiana bred or sired horse is not intended to race in Indiana under subsection (b) provided that the owner of such an Indiana bred or sired horse provides ~~such~~ written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b).

(b) If a horse selected to be tested is not covered under subsection (a), the executive director or stewards may nevertheless test any such horse as eligible to race in Indiana for prohibited substances, practices, and procedures specified in subsection (f), unless the owner or trainer or other authorized representative or designee of such horse immediately represents in writing that the horse is not intended to be, and will not be, raced in Indiana for a minimum of three hundred sixty-five (365) days. If the owner, trainer, or other authorized representative or designee so represents, the horse shall be deemed ineligible for racing in Indiana for no less than three hundred sixty-five (365) days from that date. This three hundred sixty-five (365) day ineligibility to race in Indiana shall follow the horse even if sold or transferred to another owner or trainer. An owner or trainer may, however, consent to the collection of a sample from a horse selected for testing under this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or stewards may order any horse of a licensed trainer or owner to report to a track under the jurisdiction of the commission for out of competition testing. The trainer or owner is responsible to have the horse or horses available at the designated time and location. In the event that a horse is ordered to report to a track pursuant to the authority granted by this subsection, a licensed trainer or owner is entitled to reimbursement by the commission for mileage (at the current rate paid by the state of Indiana as specified in the current Indiana financial management circular) to and from the location where the horse was stabled when the horse was ordered to report to the track. Under no circumstances will a trainer or owner be entitled to reimbursement for mileage in excess of the actual mileage to the track from the place where the horse was stabled when ordered to report and from the track to the place where the horse is first stabled following the testing. The trainer or owner is not entitled to receive reimbursement from the commission for any other expense relating to any order under this subsection to report to a track for out of competition testing.

(d) The official veterinarian, a licensed veterinarian authorized by the commission or a veterinary technician under the direct supervision of the official veterinarian or a licensed veterinarian authorized by the commission may take a urine, blood, or hair sample from a horse for testing as provided for in this section.

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives ~~must~~ **may** arrive **at a reasonable time** for the taking of blood, urine, or hair samples from an eligible horse, as defined in subsection (a) or (b), ~~only between the hours of 7:00 a.m. and noon~~, after announcing their presence at the premises where the horse or horses to be tested are located and showing their credentials to collect samples from the horse or horses selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse or horses. If neither is available, the collection will be deferred until the trainer or owner, or both, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner or trainer, or both, of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, or summary suspension. It is a defense to any action brought against an owner or trainer, or both, for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner or trainer or their representative or designee from complying with the time limits set forth in this subsection. The owner or trainer or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, methods, and procedures are defined as the following:

(1) Blood doping agents, including, but not limited to, erythropoietin (EPO), darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues.

(2) Gene doping agents or the nontherapeutic use of genes, genetic elements, or cells, or all, that have the

capacity to enhance athletic performance or produce analgesia.

(3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.

(4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.

(5) Androgenic-anabolic steroids (AAS) other than endogenous concentrations of the naturally occurring substances as defined in [71 IAC 8.5-1-8](#) or AAS in a horse placed on the veterinarian's list in accordance with [71 IAC 8.5-1-8\(f\)](#).

(6) Cobalt in excess of the threshold provided in [71 IAC 8.5-1-9](#). In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.

(7) Clenbuterol in excess of the threshold provided in [71 IAC 8.5-1-4.2\(5\)](#) for a quarter horse. In the event a sample from a quarter horse results in clenbuterol in excess of the threshold, the quarter horse shall be placed on the veterinarian's list as provided in [71 IAC 8.5-8-1.5](#).

(8) Albuterol in excess of the threshold provided in [71 IAC 8.5-1-4.2\(2\)](#) for a quarter horse. In the event a sample from a quarter horse results in albuterol in excess of the threshold, the quarter horse shall be placed on the veterinarian's list as provided in [71 IAC 8.5-8-1.5](#).

(9) Any substance or method not otherwise referenced in this rule, which is present on Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances).

(10) The presence in a horse of any substance at any time listed in subdivision (1), (2), (3), (4), (5), or (9) in an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(11) The use of a prohibited method, as defined in Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), on an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(g) The trainer or owner or his or her designees shall cooperate with the official veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, or any commission employee by:

(1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and

(2) providing a stall or safe location to collect the samples.

The executive director or stewards may summarily suspend, exclude, or otherwise penalize any trainer or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or providing a safe stall to collect samples in a timely fashion. If any such person is summarily suspended, excluded, or otherwise penalized, she or he shall be entitled to a hearing in accordance with Indiana law and regulations. A summary suspension, exclusion, or sanctions for failure to cooperate shall not issue, however, if a horseman meets his or her burden to establish the good cause defense set forth under subsection (e). This provision does not apply to an owner or trainer who timely provides written notice under subsection (a) or (b) that a horse sought to be tested is not intended to be raced in Indiana and thereby renders the horse ineligible pursuant to subsection (b).

(h) The collection of blood or urine samples under this rule shall be collected as provided by [71 IAC 8.5-3-1](#) and shall be analyzed as follows:

(1) Approved primary laboratory for screening.

(2) Approved primary laboratory for confirmation.

(3) Approved laboratory for split sample testing as chosen by the owner or trainer.

The commission shall approve the laboratories for screening, confirmation, and split sample testing.

(i) The collection of hair samples under this rule shall be collected as provided by [71 IAC 8.5-3-1](#) and shall be analyzed as follows:

(1) Approved primary laboratory for screening.

(2) Approved primary laboratory for confirmation.

The commission shall approve the primary laboratories for screening and confirmation. A hair sample shall be ineligible for split sample testing.

(j) The licensed trainer of the horse is responsible for the condition of the horse sampled for an out of competition test while on the grounds of a licensed training facility or racetrack as follows:

(1) If the horse is sampled while not on the grounds of a licensed training facility or racetrack, then the

licensed owner shall be presumed to be the responsible person unless the owner can establish by substantial evidence that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.

(2) If a horse sampled for an out of competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.

(3) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.

(4) A claimed horse is ineligible to be subjected to out of competition testing in the forty-eight (48) hours post claim unless the horse was subjected to post race testing.

(k) In the absence of extraordinary mitigating circumstances, a minimum penalty of a ten (10) year suspension will be assessed for any violation of subsection (f)(1) and (f)(2). The Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule will be considered for violations of subsection (f)(3), (f)(4), and (f)(5) with additional penalties for any drug not FDA approved for use in horses.

(Indiana Horse Racing Commission; [71 IAC 8.5-2-5](#); emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed May 7, 2014, 2:27 p.m.: [20140514-IR-071140143ERA](#), eff May 15, 2014; emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Jan 1, 2015; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#); emergency rule filed Aug 29, 2018, 11:12 a.m.: [20180905-IR-071180370ERA](#); emergency rule filed Mar 15, 2019, 2:42 p.m.: [20190320-IR-071190167ERA](#); errata filed Mar 29, 2019, 10:12 a.m.: [20190403-IR-071190167ACA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))

SECTION 9. [71 IAC 8.5-10-6](#) IS AMENDED TO READ AS FOLLOWS:

## **[71 IAC 8.5-10-6](#) Penalties**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 6. (a) Upon a finding of a positive test, the stewards or commission shall, to the extent of its regulatory authority, impose the following sanctions:

(1) For a licensee's first violation, he or she shall be suspended for thirty (30) days and, **in order for the suspension to be lifted**, shall be subject to a mandatory drug retest after thirty (30) days from the first violation of this article. Such additional drug test, **known as the standard drug test**, shall be done by the commission testing laboratory at the licensee's expense. Until such retest **using the standard drug test** achieves negative results, the licensee shall remain suspended **with the following exceptions**:

**(A) For a licensee's first violation, he or she may take a drug test after thirty (30) days from the first violation of this article known as the immediate drug test. Provided the immediate drug test is negative, the licensee's suspension will be lifted, by amending the initial ruling, while the results of the standard drug test are pending. If the licensee's standard drug test returns a negative result, the licensee's suspension remains lifted.**

**(B) If the standard drug test returns a positive result, the stewards will enter an amended ruling suspending the licensee until such time as a standard drug test, which shall be done by the commission testing laboratory at the licensee's expense, returns a negative result.**

**The licensee is only allowed one (1) immediate drug test, which is to be taken at the end of the initial thirty (30) day suspension.**

(2) For a second violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The requirements shall include an additional drug test with negative results. Such test shall be under the supervision or approval of the commission.

(3) For a third violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The person shall not be eligible to reapply for his or her license until the applicant pays for and submits to two (2) urine or saliva samples, or both, thirty (30) days apart with both samples failing to show any trace of a controlled substance or prescription drug. All such samples shall be obtained and tested by the commission or approved by the commission at a location and in a manner prescribed by the commission and at the expense of the licensee. After the licensee has received two (2) negative tests, he or she may reapply for a license unless his or her continuing participation at a race meeting shall be deemed by the commission director of security or his or her designee to be detrimental to the best interest of horse racing.

(b) Prior human controlled substance or prescription drug violations reflected on a person's racing record from any jurisdiction recognized by the commission, including Indiana, shall be counted as violations when determining appropriate penalties as set forth in ~~subsections~~ **subsection (a)**.

(c) In determining the penalty to impose for an offense covered by this rule, the stewards or the commission may consider any mitigating or exacerbating circumstances and make an appropriate adjustment to the penalties ~~which that~~ are set forth in subsection (a).

*(Indiana Horse Racing Commission; [71 IAC 8.5-10-6](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2158; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 58; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Oct 3, 2013, 2:08 p.m.: [20131009-IR-071130452ERA](#); emergency rule filed Apr 17, 2015, 3:15 p.m.: [20150422-IR-071150105ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 10. [71 IAC 9-2.2-4](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 9-2.2-4](#) SPMO license criteria and commission action**

**Authority:** [IC 4-31-7.5-11](#)

**Affected:** [IC 4-31-7.5](#)

Sec. 4. (a) The commission may issue a license under [IC 4-31-7.5](#) if the commission determines that the applicant meets all of the requirements under [IC 4-31-7.5](#) and this article and, that on the basis of all the facts before it, the following is shown:

- (1) The applicant is qualified and financially able to operate advance deposit wagering in the state of Indiana.
- (2) Advance deposit wagering in Indiana will be operated in accordance with all applicable laws and rules. ~~and~~
- (3) The issuance of a license will ensure that advance deposit wagering will be conducted with the highest of standards and the greatest level of integrity, and ensure the protection of the public interest.

(b) In reviewing an application, the commission may consider any information, data, reports, findings, factors, or indices available ~~which that~~ it considers important or relevant to its determination of whether an applicant is qualified to hold an SPMO license under [IC 4-31-7.5](#), including, without limitation, the following:

- (1) The integrity of the applicant, its partners, directors, officers, and policymakers, including, but not limited to, the following:
  - (A) Criminal record.
  - (B) Whether a party to litigation over business practices, disciplinary actions over a business license or permit, or refusal to renew a license or permit.
  - (C) Proceedings in which unfair labor practices, discrimination, or government regulation of advance deposit

wagering was an issue or bankruptcy proceedings.

(D) Failure to satisfy judgments, orders, or decrees.

(E) Delinquency in filing of tax reports or remitting taxes.

(F) Any other indices related to the integrity of the applicant ~~which~~ **that** the commission considers important or relevant to its determination.

(2) The financial strength of the applicant.

(3) The management ability of the applicant.

(4) The experience of the applicant.

(5) Compliance with applicable statutes and regulations.

(6) Whether licensing the SPMO would be in the best interest of the public health, safety, and welfare in the state. ~~and~~

(7) The potential effect on revenue to the state and Indiana horse racing constituents.

(c) The commission may grant or deny an SPMO license subject to conditions specified by the commission and agreed to by the applicant.

(d) The commission may require changes in the proposed plan of operations ~~and/or~~ **or** advance deposit wagering terms and agreement, **or both**, as a condition of granting a license. A licensed SPMO shall not make subsequent material changes in the plan of operations ~~and/or~~ **or** advance deposit wagering terms and agreement, **or both**, unless ordered by the commission or until approved by the commission after receiving a written request.

(e) A licensed SPMO shall file a license renewal request for the upcoming calendar year by ~~Nov.~~ **November 1** of the preceding year. The license renewal request must be accompanied by a cashier's check or certified check payable to the commission in the amount of one thousand dollars (\$1,000) as a nonrefundable annual license fee. In addition, the licensed SPMO must submit a letter detailing any requested changes in the commission approved plan of operations ~~and/or~~ **or** advance deposit wagering terms and agreement, **or both**.

(f) A license issued under this article is neither transferable nor assignable, including by operation of law, without the prior written consent of the commission.

(g) Any action that suspends or otherwise prohibits a licensed SPMO from operating in another state may be used as grounds for a suspension of its Indiana SPMO license.

(h) All employees working on behalf of a licensed SPMO that are officers, directors, **and** managers ~~and/or~~ **who are** involved in Indiana advance deposit wagering must hold an Indiana commission license. **All other employees working on behalf of a licensed SPMO who are involved in Indiana advance deposit wagering must hold an Indiana commission license. However, the commission or commission's designee may, at their discretion, allow a licensed SPMO to forgo licensing of some individuals involved in advance deposit wagering in Indiana provided that:**

**(1) those individuals are licensed and in good standing with appropriate regulatory authorities in the jurisdiction from which they are operating; and**

**(2) an individual that is the direct supervisor of the unlicensed individuals holds an Indiana commission license.**

*(Indiana Horse Racing Commission; [71 IAC 9-2.2-4](#); emergency rule filed Aug 29, 2018, 11:12 a.m.: [20180905-IR-071180370ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#)) NOTE: Agency cited as [71 IAC 9-2.1-4](#), which was renumbered by the Publisher as [71 IAC 9-2.2-4](#).*

SECTION 11. [71 IAC 9-2.2-5](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 9-2.2-5](#) Bond or irrevocable letter of credit**

**Authority:** [IC 4-31-7.5-11](#)

**Affected:** [IC 4-31-7.5](#)

Sec. 5. (a) A licensed SPMO shall provide a bond or irrevocable letter of credit in an amount set by the commission for the purpose of ensuring that payments to the commission and to Indiana account holders are made. In the alternative, a licensed SPMO may provide other means of assurance of such payment including, but



not limited to, evidence of ~~bond(s)~~, **bond or bonds**, irrevocable ~~letter(s)~~ **letter or letters** of credit, or other forms of financial guarantees posted and in good standing with regulatory authorities in other jurisdictions, which shall be subject to the approval of the commission. Any bond, letter of credit, or other assurance of payment acceptable to the commission provided by the licensed SPMO shall run to the Indiana horse racing commission as obligee, and shall be for the benefit of the commission and any account holder who suffers a loss by reason of the licensed SPMO's violation of [IC 4-31-7.5](#) or this rule.

(b) In determining the amount of the bond, the commission shall consider the monthly payments due to the commission pursuant to section 6 of this rule and the projected total value of all balances in Indiana advance deposit wagering accounts held by the licensed SPMO. The bond shall be the greater of fifty thousand dollars (\$50,000) or the full projected value of all balances in Indiana advance deposit wagering accounts plus the amount due to the permit holder and the commission in a monthly period pursuant to section 6 of this rule.

(c) The bond, letter of credit, or other assurance of payment shall be conditioned on the obligor as licensee faithfully complying with [IC 4-31-7.5](#) and this article. The bond shall be continuous and may be canceled by the surety only upon the surety giving written notice to the executive director of its intent to cancel the bond. The notice of cancellation shall be effective no sooner than thirty (30) days after the notice is received by the executive director. In the event of cancellation of the bond, letter of credit, or other assurance of payment the licensed SPMO shall file a new bond, letter of credit, or other assurance of payment prior to the effective date of the cancellation notice.

**(d) The commission may approve of any other form of financial responsibility, other than a bond, if the commission determines that Indiana account holders are adequately protected in the event of insolvency or other financial hardship of the licensed SPMO.**

*(Indiana Horse Racing Commission; [71 IAC 9-2.2-5](#); emergency rule filed Aug 29, 2018, 11:12 a.m.: [20180905-IR-071180370ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#)) NOTE: Agency cited as [71 IAC 9-2.1-5](#), which was renumbered by the Publisher as [71 IAC 9-2.2-5](#).*

SECTION 12. [71 IAC 13-1-3](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 13-1-3](#) Information to be submitted with a registration**

**Authority:** [IC 4-31-3-9](#); [IC 4-35-7-12](#)

**Affected:** [IC 2-7-1-9](#); [IC 4-31](#); [IC 4-35](#)

Sec. 3. In addition to the information described in section 2(b) of this rule, the registration of a horsemen's association to receive monies allocated pursuant to [IC 4-35-7-12](#) shall include, but not be limited to, the following information:

- (1) A proposed budget for the calendar year (or, in the case of a registration under section 1(c) of this rule, the calendar years) to which the registration applies that separately identifies general categories for the expenditure of funds anticipated to be paid by the permit holders to the horsemen's association for:
  - (A) equine promotion or welfare pursuant to ~~under~~ [IC 4-35-7-12](#)(d)(1);
  - (B) backside benevolence pursuant to ~~under~~ [IC 4-35-7-12](#)(d)(2); and
  - (C) the purposes provided for in [IC 4-35-7-12](#)(f) in the amount provided for by [IC 4-35-7-12](#)(f)(1)(A)(ii) and [IC 4-35-7-12](#)(f)(1)(A)(iii), [IC 4-35-7-12](#)(f)(2)(C)(ii), or [IC 4-35-7-12](#)(f)(3)(A)(ii).
- (2) A specific description of the accounting, auditing, internal control, and reporting procedures that will be maintained by the horsemen's association with respect to the three (3) separate accounts required by section 8(a)(7) of this rule during the calendar year for which payments will be made, as well as the name and contact information of the individuals responsible for each function.
- (3) A certification by the board of directors of the horsemen's association that the expenditures from funds paid by the permit holders for **subdivision** (1)(A) and (1)(B) ~~above~~, are in the best interests of horse racing in Indiana for the breed represented by the horsemen's association.
- (4) A conflict of interest policy approved by the commission that has been executed by all of the officers, directors, and employees of the horsemen's association.
- (5) Certification by an officer of the horsemen's association that no monies distributed pursuant to ~~under~~ [IC 4-35-7-12](#) have been used in either the current year or will be used from the budget year for either:
  - (A) a contribution to a candidate or committee; or
  - (B) lobbying, as defined in [IC 2-7-1-9](#).

(6) Any other information requested by the commission or its executive director.

(Indiana Horse Racing Commission; [71 IAC 13-1-3](#); emergency rule filed Jul 11, 2008, 2:13 p.m.: [20080723-IR-071080595ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed Apr 4, 2013, 1:05 p.m.: [20130410-IR-071130134ERA](#); emergency rule filed Oct 22, 2014, 3:01 p.m.: [20141029-IR-071140446ERA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))

SECTION 13. [71 IAC 14-4-4](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 14-4-4](#) Breeder award**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 4. (a) For foals of 2009 and prior, an award will be paid to the breeder of an Indiana sired horse ~~which~~ **that** wins the following, and for foals of 2010 and later, an award will be paid to the breeder of an Indiana sired and bred horse ~~which that~~ wins the following:

- (1) Final of any breed development Indiana sired late closer event.
- (2) Leg or final of the Indiana sires stakes.
- (3) Indiana sired fair circuit championship races.
- (4) Any horse winning the track's open or invitational race.
- (5) Any two (2) or three (3) year old winning any other race not listed ~~above~~ **in subsections [subdivisions] (1) through (4)** in which the horse is not entered for a claiming price tag.

(b) For foals of 2010 and later, an ~~the~~ award will be paid to the breeder of an eligible Indiana sired and bred horse whose combined win earnings are greater than twenty thousand dollars (\$20,000). The award will be allocated based on a percentage of the total pool equal to an eligible horse's combined win earnings of all eligible horses.

(Indiana Horse Racing Commission; [71 IAC 14-4-4](#); emergency rule filed Jun 10, 2009, 12:45 p.m.: [20090617-IR-071090464ERA](#), eff May 29, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-464(E) was filed with the Publisher June 10, 2009.]; emergency rule filed Nov 24, 2015, 1:32 p.m.: [20151202-IR-071150422ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))

SECTION 14. [71 IAC 14.5-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 14.5-3-1](#) Owner award**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 1. (a) An owner award is the award paid to the owner of a registered Indiana bred quarter horse ~~which~~ **that** places first, second, or third in any race except trials and claiming races when entered for a claiming price of less than five thousand dollars (\$5,000) or any speed index race, at a licensed pari-mutuel racetrack in Indiana.

(b) In the event of multiple owners, the award will be paid to the individual listed first on the Equibase result chart. It is the responsibility of the individual who receives the owner award to distribute these monies to the remaining owners.

(c) For Indiana bred races the amount of the award is twelve and one-half percent (12.5%) of the gross purse, **and** distribution is:

- (1) fifty percent (50%) is awarded to the winner, not to exceed five thousand dollars (\$5,000);
- (2) thirty percent (30%) is awarded to second place, not to exceed three thousand dollars (\$3,000); and
- (3) twenty percent (20%) is awarded to third place, not to exceed two thousand dollars (\$2,000).

(d) For open **overnight** races the amount of the award is ~~six and one-quarter percent (6.25%)~~ **twelve and one-half percent (12.5%)** of the gross purse, **and** distribution is:

- (1) fifty percent (50%) is awarded to the winner, not to exceed ~~two five~~ thousand five hundred dollars (\$2,500); **(\$5,000);**
- (2) thirty percent (30%) is awarded to second place, not to exceed ~~one three~~ thousand five hundred dollars (\$1,500); **(\$3,000); and**
- (3) twenty percent (20%) is awarded to third place, not to exceed ~~one two~~ thousand dollars (\$1,000). **(\$2,000).**

**(e) For open stakes races the amount of the award is six and one-quarter percent (6.25%) of the gross purse, and distribution is:**

- (1) fifty percent (50%) awarded to the winner, not to exceed two thousand five hundred dollars (\$2,500);**
- (2) thirty percent (30%) awarded to second place, not to exceed one thousand five hundred dollars (\$1,500); and**
- (3) twenty percent (20%) awarded to third place, not to exceed one thousand dollars (\$1,000).**

~~(e)~~ **(f)** Awards will be paid by the commission.

*(Indiana Horse Racing Commission [71 IAC 14.5-3-1](#); emergency rule filed Nov 15, 2000, 11:40 a.m.: 24 IR 1037; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Apr 24, 2006, 11:11 a.m.: 29 IR 3034; emergency rule filed Jan 24, 2008, 10:58 a.m.: [20080206-IR-071080056ERA](#), eff Jan 23, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-56(E) was filed with the Publisher January 24, 2008.]; emergency rule filed Apr 4, 2013, 1:05 p.m.: [20130410-IR-071130134ERA](#); emergency rule filed Feb 3, 2017, 2:24 p.m.: [20170208-IR-071170051ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 15. [71 IAC 14.5-3-2](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 14.5-3-2](#) Breeder award**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 2. (a) A breeder award is the award paid to the breeder of a registered Indiana bred quarter horse ~~which~~ **that** places first, second, or third in any race except trials and claiming races when entered for a claiming price of less than five thousand dollars (\$5,000) or any speed index race, at a licensed pari-mutuel racetrack located in Indiana.

(b) In the event of multiple breeders, the award will be paid to the individual designated as the recipient on the foal application. It is the responsibility of the designated recipient to distribute these monies to the remaining breeders.

(c) For Indiana bred races the amount of the award is twelve and one-half percent (12.5%) of the gross purse, **and** distribution is:

- (1) fifty percent (50%) is awarded to the winner, not to exceed five thousand dollars (\$5,000);
- (2) thirty percent (30%) is awarded to second place, not to exceed three thousand dollars (\$3,000); and
- (3) twenty percent (20%) is awarded to third place, not to exceed two thousand dollars (\$2,000).

(d) For open **overnight** races the amount of the award is ~~six and one-quarter percent (6.25%)~~ **twelve and one-half percent (12.5%)** of the gross purse, **and** distribution is:

- (1) fifty percent (50%) is awarded to the winner, not to exceed ~~two five~~ thousand five hundred dollars (\$2,500); **(\$5,000);**
- (2) thirty percent (30%) is awarded to second place, not to exceed ~~one three~~ thousand five hundred dollars (\$1,500); **(\$3,000); and**
- (3) twenty percent (20%) is awarded to third place, not to exceed ~~one two~~ thousand dollars (\$1,000). **(\$2,000).**

**(e) For open stakes races the amount of the award is six and one-quarter percent (6.25%) of the gross purse, and distribution is:**

- (1) fifty percent (50%) awarded to the winner, not to exceed two thousand five hundred dollars (\$2,500);**

- (2) **thirty percent (30%) awarded to second place, not to exceed one thousand five hundred dollars (\$1,500); and**  
(3) **twenty percent (20%) awarded to third place, not to exceed one thousand dollars (\$1,000).**

~~(e)~~ (f) Awards will be paid by the commission.

~~(f)~~ (g) For breeder awards earned January 1, 2013, and thereafter, the recipient is the owner of the dam at the time of the dam's registration with the breed development program.

*(Indiana Horse Racing Commission; [71 IAC 14.5-3-2](#); emergency rule filed Nov 15, 2000, 11:40 a.m.: 24 IR 1037; errata filed Feb 9, 2001, 3:38 p.m.: 24 IR 2091; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:27 a.m.: 25 IR 2539; emergency rule filed Jan 24, 2008, 10:58 a.m.: [20080206-IR-071080056ERA](#), eff Jan 23, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-56(E) was filed with the Publisher January 24, 2008.]; errata filed Feb 18, 2008, 2:03 p.m.: [20080305-IR-071080056ACA](#); emergency rule filed Apr 4, 2013, 1:05 p.m.: [20130410-IR-071130134ERA](#); emergency rule filed Feb 3, 2017, 2:24 p.m.: [20170208-IR-071170051ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

SECTION 16. [71 IAC 14.5-3-3](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 14.5-3-3](#) Stallion owner award**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31](#)

Sec. 3. (a) A stallion owner award is the award paid to the owner or lessee of a registered Indiana stallion whose registered progeny places first, second, or third in any race except trials and claiming races when entered for a claiming price of less than five thousand dollars (\$5,000) or any speed index race, at a licensed pari-mutuel racetrack located in Indiana.

(b) In the event of multiple stallion owners, the award will be paid to the individual designated as the recipient on the stallion application. It is the responsibility of the designated recipient to distribute these monies to the remaining stallion owners.

(c) For Indiana bred races the amount of the award is twelve and one-half percent (12.5%) of the gross purse, **and** distribution is:

- (1) fifty percent (50%) is awarded to the winner, not to exceed five thousand dollars (\$5,000);
- (2) thirty percent (30%) is awarded to second place, not to exceed three thousand dollars (\$3,000); and
- (3) twenty percent (20%) is awarded to third place, not to exceed two thousand dollars (\$2,000).

(d) For open **overnight** races the amount of the award is ~~six and one-quarter percent (6.25%)~~ **twelve and one-half percent (12.5%)** of the gross purse, **and** distribution is:

- (1) fifty percent (50%) is awarded to the winner, not to exceed ~~two five thousand five hundred dollars (\$2,500);~~ **(\$5,000);**
- (2) thirty percent (30%) is awarded to second place, not to exceed ~~one three thousand five hundred dollars (\$1,500);~~ **(\$3,000); and**
- (3) twenty percent (20%) ~~is~~ awarded to third place, not to exceed ~~one two thousand dollars (\$1,000).~~ **(\$2,000).**

(e) For open stakes races the amount of the award is six and one-quarter percent (6.25%) of the gross purse, **and** distribution is:

- (1) fifty percent (50%) awarded to the winner, not to exceed two thousand five hundred dollars (\$2,500);
- (2) thirty percent (30%) awarded to second place, not to exceed one thousand five hundred dollars (\$1,500); and
- (3) twenty percent (20%) awarded to third place, not to exceed one thousand dollars (\$1,000).

~~(e)~~ (f) Awards will be paid by the commission.

(f) **(g)** The award will be paid to the owner or lessee of the registered stallion at time of conception.

~~(g)~~ **(h)** No stallion standing outside Indiana and shipping semen into the state will be eligible to participate in any stallion breed development awards.

*(Indiana Horse Racing Commission; [71 IAC 14.5-3-3](#); emergency rule filed Nov 15, 2000, 11:40 a.m.: 24 IR 1037; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:27 a.m.: 25 IR 2539; emergency rule filed Jan 24, 2008, 10:58 a.m.: [20080206-IR-071080056ERA](#), eff Jan 23, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-56(E) was filed with the Publisher January 24, 2008.]; emergency rule filed Apr 4, 2013, 1:05 p.m.: [20130410-IR-071130134ERA](#); emergency rule filed Feb 3, 2017, 2:24 p.m.: [20170208-IR-071170051ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#))*

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